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Paper No. 12

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DEC 01 2004

OFFICE OF PETITIONS

In re Application of :
Anthony Nugent, et al. :
Application No. 09/309,879 :
Filed: May 11, 1999 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (3).

Only the first named applicant signed the statement of unintentional delay. MPEP 403 states in pertinent part:

In a joint application with no attorney or agent, the applicant whose name first appears in the papers receives the correspondence, unless other instructions are given. **All applicants must sign the replies.**" Emphasis added.

In view thereof, both named inventors must sign the petition and reply. Additionally, it is noted that applicants have appointed a registered attorney to prosecute the application. 37 CFR 1.33 states when an attorney has been duly appointed to prosecute the application correspondence will be held with the attorney unless some other correspondence address has been given. Double correspondence with an applicant and his or her attorney, or with two representatives, will not be undertaken. Nevertheless, a courtesy copy of this decision will be mailed to the petitioner at the address listed on the petition. However, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

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The centralized facsimile number is (703) 872-9306.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.



Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Anthony Nugent
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